



ANALYSIS

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| <p>Title</p> <p>1. Short Title and commencement</p> <p>2. Interpretation (Breath-Alcohol and Blood-Alcohol Offences)</p> | and | <p>3. Evidence of testing and accuracy of weighing devices and sites, and speed-measuring devices</p> <p>4. Transitional provisions</p> |
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1992, No. 48

An Act to amend the Transport Act 1962

[15 June 1992]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Transport Amendment Act 1992, and shall be read together with and deemed part of the Transport Act 1962 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of July 1992.

2. Interpretation (Breath-Alcohol and Blood-Alcohol Offences)—(1) Section 57A(1) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by inserting, after the definition of the term “approved health authority”, the following definition:

“ ‘Approved laboratory’ means a laboratory approved by the Science Minister by notice in the *Gazette* for the purposes of analysing blood specimens taken for the purposes of this Act:”.

(2) Section 57A of the principal Act (as so substituted) is hereby amended by repealing the definitions of the terms “blood specimen collecting kit” and “Ministry analyst” in subsection (1), and substituting the following definitions:

“ ‘Blood specimen collecting kit’ means a package having endorsed thereon or affixed thereto or included therein a label indicating that it is a blood specimen collecting kit and that it has been supplied by or on

behalf of a laboratory for the time being approved by the Science Minister by notice in the *Gazette* for the purpose of supplying or causing to be supplied blood specimen collecting kits:

“ ‘Ministry analyst’ means—

“(a) Any person who is designated by the Science Minister by notice in the *Gazette* as the analyst in charge of an approved laboratory; or

“(b) Any person who works in an approved laboratory and who is authorised, by the analyst in charge of that laboratory, to act as a Ministry analyst, either generally or in any particular case.”

(3) Section 57A (1) of the principal Act (as so substituted) is hereby amended by adding the following definition:

“ ‘Science Minister’ means, subject to any enactment, the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Foundation for Research, Science, and Technology Act 1990.”

(4) Section 57A (3) of the principal Act (as so substituted) is hereby amended by inserting, after the word “Minister”, the words “or the Science Minister”.

(5) Section 57A of the principal Act (as so substituted) is hereby amended by inserting, after subsection (4), the following subsection:

“(4A) Any approval by the Science Minister of a laboratory as an approved laboratory for the purposes of this section may be given on such terms and conditions as the Science Minister thinks fit and as are specified in the notice approving that laboratory.”

3. Evidence of testing and accuracy of weighing devices and sites, and speed-measuring devices—

(1) Section 197 of the principal Act (as substituted by section 36 of the Transport Amendment Act 1987) is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) In any proceedings for an offence against this Act or the Road User Charges Act 1977, or any regulations or bylaws made under this Act or that Act, the production of a certificate (or a document purporting to be a copy of a certificate) purporting to be signed by an officer of the Department authorised by the Secretary in that behalf, either generally or in any particular case, certifying that—

- “(a) On a specified date, being a date not more than 12 months earlier than the date of the alleged offence, any weighing device referred to in the certificate was tested by—
- “(i) An Inspector of Weights and Measures; or
 - “(ii) An accredited person (within the meaning of the Weights and Measures Act 1987); or
 - “(iii) An officer of the Department of Scientific and Industrial Research; or
 - “(iv) An employee of a laboratory for the time being approved for the purpose by the Science Minister by notice in the *Gazette*; or
 - “(v) Any other person who is approved for the purpose by the Minister by notice in the *Gazette*; or
- “(b) On a specified date, being a date not more than 5 years earlier than the date of the alleged offence, any weighing site referred to in the certificate was tested or surveyed by—
- “(i) An officer of the Department; or
 - “(ii) An officer of the Department of Scientific and Industrial Research; or
 - “(iii) An employee of a laboratory for the time being approved for the purpose by the Science Minister by notice in the *Gazette*—

and found to be accurate shall, in the absence of evidence to the contrary, be sufficient evidence that it was accurate on the date of the alleged offence.

“(1A) Any notice given by the Science Minister or the Minister in the *Gazette* for the purposes of subsection (1) of this section may be in like manner amended or revoked at any time.”

(2) Section 197 of the principal Act (as so substituted) is hereby amended by repealing subsection (6), and substituting the following subsections:

“(6) In any proceedings for an offence against this Act or the Road User Charges Act 1977, or any regulations or bylaws made under this Act or that Act, proof that—

- “(a) Any weighing device bore the stamp of a mark of verification under the Weights and Measures Act 1987 indicating that the weighing device had been so stamped in a month not earlier than 12 months before the month of the alleged offence; or
- “(b) At the time of the alleged offence, there was in force in respect of any weighing device a certificate of

accuracy issued under the Weights and Measures Act 1987—

shall, in the absence of evidence to the contrary, be sufficient evidence that the weighing device was accurate on the date of the alleged offence.

“(7) In this section, the term ‘Science Minister’ means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Foundation for Research, Science, and Technology Act 1990.”

4. Transitional provisions—(1) Notwithstanding the amendment, by section 2 of this Act, of the definition of the term “blood specimen collecting kit” in section 57A (1) of the principal Act, any blood specimen collecting kit (within the meaning of section 57A (1) of the principal Act) supplied, by or on behalf of the Department of Scientific and Industrial Research, before the commencement of this section may, after the commencement of this section, continue to be used as a blood specimen collecting kit for the purposes of the principal Act.

(2) Notwithstanding the amendment, by section 2 of this Act, of the definition of the term “Ministry analyst” in section 57A (1) of the principal Act, sections 58G and 58H of the principal Act shall, after the commencement of this section, continue to apply, in respect of any certificate that is referred to in section 58G (1) of the principal Act and that was given before the commencement of this section, as if this Act had not been passed.

(3) Notwithstanding anything in section 58F or section 58G of the principal Act, where,—

(a) Before the commencement of this section, any blood specimen taken under section 58C or section 58D of the principal Act has been delivered or posted, under subsection (3) or subsection (4) of section 58F of the principal Act, to a Ministry analyst (being a person who, at the time when that blood specimen was so delivered or posted, was the Dominion Analyst or a Government Analyst or was otherwise employed in the Department of Scientific and Industrial Research); and

(b) Any one or more of the following circumstances apply in relation to that blood specimen, namely,—

(i) In the case of a blood specimen that was posted before the commencement of this section, that blood

specimen was not received by a Ministry analyst until after the commencement of this section; or

(ii) That blood specimen was not analysed by a Ministry analyst before the commencement of this section; or

(iii) Analysis of that blood specimen was not completed by a Ministry analyst before the commencement of this section; or

(iv) Analysis of that blood specimen was completed by a Ministry analyst before the commencement of this section but a certificate of the kind referred to in section 58G (1) (d) of the principal Act was not issued in respect of that blood specimen before the commencement of this section,—

the following provisions shall apply:

(c) After the commencement of this section, the blood specimen may be analysed, or the analysis of that blood specimen may be completed, as the case requires, by any Ministry analyst:

(d) A certificate of the kind referred to in section 58G (1) (d) of the principal Act may, after the commencement of this section, be issued in respect of that blood specimen by any Ministry analyst:

(e) No such analysis, and no certificate so issued, shall be invalid on the ground—

(i) That, in the case of a blood specimen to which paragraph (b) (i) of this subsection applies, the person to whom the blood specimen was addressed was, before the commencement of this section, a Ministry analyst in that person's capacity as the Dominion Analyst or a Government Analyst or as an employee in the Department of Scientific and Industrial Research and either ceased to be such a Ministry analyst on or before the commencement of this section or was, after the commencement of this section, a Ministry analyst in an approved laboratory; or

(ii) That the analysis was done or completed, or the certificate was issued, by a Ministry analyst who was not the Ministry analyst to whom the blood specimen was delivered or posted, in accordance with subsection (3) or subsection (4) of section 58F of the principal Act, before the commencement of this section; or

(iii) That the person who carried out or completed the analysis or issued the certificate either was not, before the commencement of this section, a Ministry analyst in that person's capacity as the Dominion Analyst or a Government Analyst or as an employee in the Department of Scientific and Industrial Research, or was such an analyst before the commencement of this section and was, after the commencement of this section, a Ministry analyst in an approved laboratory.

(4) Where—

- (a) After the commencement of this section, any person makes an application under section 58F of the principal Act for a part of a blood specimen to be sent to a private analyst; and
- (b) The blood specimen to which the application relates is a blood specimen to which any of subparagraphs (i) to (iv) of paragraph (b) of subsection (3) of this section applies,—

the following provisions shall apply:

- (c) The Ministry analyst who for the time being has custody of the blood specimen shall be deemed, for the purposes of section 58F (5) of the principal Act, to be the Ministry analyst to whom the blood specimen had been delivered or posted in accordance with subsection (3) or subsection (4) of section 58F of the principal Act; and
 - (d) The Ministry analyst having such custody may give a certificate of the kind referred to in section 58G (1) (e) of the principal Act, and no certificate so given shall be invalid on the ground that it was given by a Ministry analyst under the authority of this subsection and not by the Ministry analyst to whom the blood specimen was actually delivered or posted.
- (5) Notwithstanding anything in section 58G of the principal Act, where, before the commencement of this section, any certificate of the kind referred to in subsection (1) (d) of that section has been issued in respect of any blood specimen, a certificate of that kind may, from time to time, after the commencement of this section, be issued in respect of that blood specimen by any Ministry analyst within the meaning of section 57A (1) of the principal Act (as amended by section 2 of this Act) in any case where that analyst has available to him or her such information as is necessary to enable that analyst to fully complete that certificate.

(6) Section 58G (1) of the principal Act shall apply in respect of any certificate issued under the authority of subsection (5) of this section as if the certificate had been signed, before the commencement of this section, by the Ministry analyst to whom the blood specimen to which the certificate relates was delivered or posted under subsection (3) or subsection (4) of section 58F of the principal Act.

(7) Where a certificate is issued under the authority of subsection (5) of this section in respect of a blood specimen by a person who is not the Ministry analyst to whom the blood specimen to which the certificate relates was delivered or posted under subsection (3) or subsection (4) of section 58F of the principal Act, then, in the application of the provisions of the principal Act to any certificate so issued, section 58G (1) (d) (i) of the principal Act shall be read as if there were substituted for the words "the Ministry analyst" the words "a named Ministry analyst".

(8) Notwithstanding anything in section 58F or section 58G of the principal Act, where, after the commencement of this section,—

- (a) Any blood specimen taken under section 58C or section 58D of the principal Act is posted by registered post in any package, parcel, or other container that is addressed to the Dominion Analyst; and
- (b) That blood specimen is received by a Ministry analyst,—the following provisions shall apply:
 - (c) Sections 58F and 58G of the principal Act shall apply in all respects as if that blood specimen had been delivered to that Ministry analyst in a package properly addressed to that Ministry analyst; and
 - (d) That Ministry analyst shall be deemed, for the purposes of the principal Act, to be the Ministry analyst notified pursuant to section 58F (4) (b) of the principal Act; and
 - (e) Any certificate of the kind referred to in section 58G (1) (c) of the principal Act that certifies that the blood specimen was sent or caused to be sent by registered post to the Dominion Analyst shall, for the purposes of the principal Act, be deemed to certify that the specimen was sent or caused to be sent to the Ministry analyst who received that specimen.